

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

UNITED STATES OF AMERICA

v.

LANCELOTT A. WHITE

Defendant.

Criminal Action Number 3:04CR165

**ORDER**

THIS MATTER comes before the Court on Defendant Lancelott A. White's Motion to Vacate Sentence and Order Alternative Sentence, filed on March 17, 2005. On November 2, 2004, the Court entered a Judgment Order against Defendant sentencing him to seventy (70) months imprisonment. The Court also entered an alternative sentence pursuant to the Fourth Circuit's ruling in United States v. Hammoud, 381 F.3d 316 (4th Cir. 2004). Under this alternative sentence, Defendant was sentenced to sixty (60) months imprisonment.

Defendant now asks the Court to vacate his present sentence and impose the alternative sentence. At this time, the Court finds that it has no jurisdiction to impose Defendant's alternative sentence. See United States v. Comarovschi, No. 3:03CR127, 2005 U.S. Dist. LEXIS 3999 (W.D. Va. Mar. 19, 2005). Defendant did not appeal his sentence, it is not pending on direct review, and his conviction is now final. The Court has limited jurisdiction to modify or amend a sentence once imposed. See 18 U.S.C. § 3582(c) ("The court may not modify a term of imprisonment once it has been imposed except" in cases upon motion of the Director of the Bureau of Prisons, under Federal Rule of Criminal Procedure 35, and where a term of imprisonment has been lowered by the

Sentencing Commission.). Since the Court has no authority to modify Defendant's sentence given its procedural posture, Defendant's Motion is DENIED for LACK OF JURISDICTION.

Defendant is ADVISED that since his sentence has become final, the Court can only properly review his motion on collateral attack. Accordingly, Defendant is DIRECTED to file a Motion under 28 U.S.C. § 2255 to vacate, correct, or set aside his conviction, if he wishes the Court to further consider this matter. Defendant is FURTHER ADVISED that he must present all applicable claims in his motion under § 2255. The Clerk is DIRECTED to send Defendant and Counsel for Defendant a form for filing a petition under § 2255.

Let the Clerk send a copy of this Order to Defendant and all parties of record.

It is SO ORDERED.

/s/ James R. Spencer  
UNITED STATES DISTRICT JUDGE

APR 22, 2005

DATE